

**Notice of Allowability**

Application No.

10/688,289

Examiner

Raymond J. Henley III

Applicant(s)

CHERNOMORSKY ET AL.

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper filed January 14, 2008.
2. ☒ The allowed claim(s) is/are 1-61 (62 has been cancelled; see papers inside).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>1/23/2004 - 1/23/2008</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____   |

/Raymond J Henley III/  
Primary Examiner, Art Unit 1614

**CLAIMS 1-62 ARE PRESENTED FOR EXAMINATION**

Applicants' response to the requirement for restriction dated January 14, 2008 has been received and entered into the application.

***Election/Restriction***

In said response, Applicants have elected, **without traverse**, the invention of Group I, (claims 1-60), species 5, (an implant comprising mixtures of a dye, a pigment, a contrast agent, a therapeutic agent and a radiopaque compound).

Insofar as Applicants' election has been made without traverse, claim 62 has been withdrawn from further consideration under 37 C.F.R. § 1.142(b) as being directed to non-elected subject matter.

**EXAMINER'S AMENDMENT**

Further, having made such election **without traverse**, the Examiner here **deletes** claim 62 as per 37 C.F.R. 1.142(b).

Claims 1-61 are herein acted on the merits to the extent of Applicants' election.

Claim 1 defines a post-biopsy treatment implant which comprises (i) a radiopaque element ; (ii) a core portion coupled to the radiopaque element, the core portion including a first porous matrix defining a first controlled pore architecture; and (iii) a shell portion coupled to the core portion including a second porous matrix defining a second controlled pore architecture that is different from the first controlled core architecture.

The remaining claims further define the above claim elements.

**Information Disclosure Statements**

Applicants have filed Information Disclosure Statements on January 23, 2004, March 9, 2005, July 1, 2005, March 28, 2007, January 23, 2008, January 24, 2008 and January 23, 2008.

The subject matter of the references disclosed has been provided careful consideration. None of such matter renders the presently claimed subject matter anticipated under 35 U.S.C. § 102 and/or 35 U.S.C. § 103(a).

Accordingly, the Examiner find the subject matter of claims 1-61 allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Henley III whose telephone number is 571-272-0575. The examiner can normally be reached on M-F, 8:30 am to 4:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 1614

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April 7, 2008  
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